

**MADISON COUNTY BOARD OF SUPERVISORS
CONDUCTING ELECTRONIC BOARD MEETINGS
DURING THE COVID-19 EMERGENCY**

A public hearing will be held at 6:00 p.m., or as soon thereafter as possible, on Tuesday, October 27, 2020, in the Madison County Administration Building Auditorium, 414 North Main Street, Madison, Virginia 22727, for any and all persons who wish to appear and be heard concerning a proposed temporary ordinance that would allow the Board of Supervisors to meet electronically during the COVID-19/coronavirus pandemic.

The ordinance proposed would, if adopted, authorize a “continuity of government” practice that would expire up to six months after adoption and a method for the resumption of normal governmental authority thereafter. The proposed ordinance can be viewed at www.madisonco.virginia.gov and is available for review during normal business hours, Monday-Friday, 8:30 a.m. – 4:30 p.m. in the Office of the County Administrator located at 414 N. Main Street, Madison, Virginia.

Comments may be submitted in writing or via email before October 26, 2020 to jfrye@madisonco.virginia.gov.

Jack Hobbs
County Administrator

Publication in the Thursday, October 8 and 15, 2020 Madison Eagle authorized

**AN UNCODIFIED ORDINANCE TO REESTABLISH METHODS TO
ASSURE CONTINUITY IN MADISON COUNTY GOVERNMENT AND
CONDUCT OF BOARD OF SUPERVISORS MEETINGS DURING THE
NOVEL CORONAVIRUS DISEASE 2019 (COVID-19) EMERGENCY
#2020-_____**

WHEREAS, §§15.2-1413 and 1427 of the Code of Virginia provides for the establishment of methods to assure continuity in Madison County government and conduct of Board of Supervisors meetings during the COVID-19 Emergency. and§

WHEREAS, the Madison County Board of Supervisors ("Board") adopted an emergency ordinance on this matter on March 26, 2020 that was effective for 60 days and an uncodified ordinance on May 12, 2020 that was effective for 6 months, and

WHEREAS, the Board finds it necessary and appropriate to renew the method of assuring continuity in Madison County's government and to provide for the conduct of Board meetings during the COVID-19 emergency;

NOW, THEREFORE, BE IT ORDAINED by the Board of Madison County:

1. That the following uncodified ordinance is hereby adopted:

A . Purpose of the Ordinance:

This ordinance reestablishes methods to assure continuity in Madison County government, including the Board' procedures for meetings, during the COVID-19 emergency. These provisions are intended to ensure the Board' ability to conduct necessary public business in a manner consistent with Virginia state law and federal, state, and local health directives and guidance, all while maintaining transparency and public participation to the greatest extent feasible.

This ordinance is being adopted in response to the COVID-19 outbreak. The World Health Organization declared COVID-19 a global pandemic on March 11, 2020. On March 13, 2020, the President of the United States declared that the COVID-19 outbreak in the United States constitutes a National Emergency beginning March 1, 2020. On March 12, 2020, Governor Ralph Northam issued a Declaration of a State of Emergency due to Novel Coronavirus (COVID-19). The Governor declared the emergency "to continue to prepare and coordinate our response to the potential spread of COVID-19 constitute a disaster as described in §44146.16 of the Code of Virginia." The Governor's Declaration of a State of Emergency remains in effect until June 10, 2020, unless sooner amended or rescinded. Effective March 16, 2020, Governor Northam and the State Health Commissioner jointly issued an Order declaring a state public health emergency. On March 13, 2020, the Madison County Director of Emergency Management, with the consent of the Board, declared a local state of emergency due to the potential spread of COVID-19. The local Declaration of Emergency remains in effect until

the Board takes appropriate action to end the declared emergency.

The Public Health Emergency Order issued jointly by the Governor and the State Health Commissioner effective March 16, 2020, consistent with other expert opinions, observes that COVID-19 spreads from person to person, transmitted via respiratory droplets, and can be spread from an infected person who does not have symptoms to another person. No vaccine or known treatment options exist at this time.

This Ordinance extends the Emergency Ordinance adopted on March 26, 2020 and renewed on May 12, 2020 and shall remain in full force and effect until the Governor declares that the State of Emergency has ended, or until six months from the date of adoption of this ordinance, whichever occurs first.

B. Virginia Statutory Authority for the Ordinance.

Virginia Code §15.2 1413 authorizes localities to adopt an ordinance to "Provide a method to assure continuity in its government, in the event of an enemy attack or other disaster," "[n]otwithstanding any contrary provision of law, general or special." The Governor's Declaration of a State of Emergency found that "[t]he anticipated effects of COVID-19 constitute a disaster as described in §44 146.16 of the Code of Virginia."

Virginia Code §15.2 1427 authorizes counties to adopt emergency ordinances without prior notice; however, no such ordinance may be enforced for more than 60 days unless readopted in conformity with the provisions of the Virginia Code.

Virginia Code §2.2 3708.2(A)(3) allows the Board to meet via electronic communications without a quorum physically assembled together "when the Governor has declared a state of emergency," "the catastrophic nature of the declared emergency makes it impracticable or unsafe to assemble a quorum in a single location," and "the purpose of the meeting is to address the emergency." Public notice must be given using the best available method, in light of the nature of the emergency and it must be provided contemporaneously with the notice provided to the members of the public body. Finally, arrangements must be made for the public to access the meeting.

Virginia Code §2.2 3708.2(A)(1) allows members of the Board to participate in a meeting via electronic communications if (1) it has a written policy allowing for such electronic participation; (2) a quorum of the Board is physically assembled at the primary meeting location; (3) the Board makes arrangements for the voice of the remote participant to be heard by all persons at the primary location; and (4) any member requesting remote participation is unable to attend the meeting due either to a temporary or permanent disability or other medical condition that prevents the member's physical attendance, or to a

personal matter that is identified with specificity.

C. Definitions.

"Continuity in Madison County government" includes, without limitation, those actions, and the coordination of actions, that are necessary to assure the continuation of the County's essential functions and services.

"Electronic communication" means the use of technology having electrical, telephonic, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities to transmit or receive information.

"Emergency" means the outbreak of the respiratory illness referred to as the novel coronavirus or COVID-19, as described in the Governor's Declaration of a State of Emergency and the local Declaration of Emergency, and the spread and effects of COVID-19, which constitute a disaster as defined in Virginia Code §44-146.16.

"Meeting" means a regular meeting of the Board as established on the schedule approved by the Board at its 2020 Annual Meeting on January 2, 2020, the meetings of my Board Committee, the Planning Commission, and any special or emergency meeting called as allowed by Virginia Code §§15.2 1417 and 1418.

"Usual procedures" means the requirements and procedures established by the Virginia Freedom of Information Act for public meetings, including remote participation by a Board member as long as a quorum of the Board is physically assembled at the meeting location, as allowed by Virginia Code §2.2 3708.2(A)(1) and the policy adopted by the Board on March 26, 2020.

D. Board of Supervisor's Meeting Procedures.

1. For any meeting at which the Board transacts public business with any purpose other than addressing the emergency or assuring continuity in Madison County government, the Board will meet in accordance with all usual procedures established by the Virginia Freedom of Information Act.

2. If the purpose of a meeting of the Board is to address the emergency, the Board will meet in accordance with all usual procedures established by the Virginia Freedom of Information Act unless, in the judgment of the Chairman, the catastrophic nature of the declared emergency makes it impracticable or unsafe to physically assemble a quorum in one location, in which case the Board will meet solely through electronic communication means to discuss the emergency in accordance with the emergency procedures established

by FOIA and specifically Virginia Code §2.2 3708.2(A)(3). In no event shall any action be taken by the Board in an electronic meeting unless a quorum is participating remotely. If the Board follows the procedures established by Virginia Code §2.3 3708.2 (A)(3), the Board will state on the record the nature of the emergency, the fact that the meeting is being held electronically, and the type of electronic communication means being used, and the Board will make arrangement for public access to the meeting.

3. (A) In addition, if any meeting or any part of a meeting of the Board is being conducted for the purpose of assuring continuity in the Madison County government, the Board will meet in accordance with all usual procedures established by the Freedom of Information Act to the extent possible.

(B) If, in the judgment of the Chairman, items proposed to be considered are necessary to assure continuity in Madison County government and the usual procedures cannot be implemented safely or practically, then, under the authority granted to the Board by Virginia Code §15.2 1413, the method by which the Board will conduct any meeting to consider the items will be as follows:

(1) The meeting may be held solely through electronic communication means without a quorum of members physically assembled at one location, but only after notice of the meeting is given in accordance with applicable laws. In no event shall any action be taken by the Board in an electronic meeting unless a quorum is participating remotely.

(2) The meeting may be held without permitting members of the public to be physically present in the same location as any of the Board members, but alternative arrangements for public access will be made. Such alternative public access may be through electronic communication, including but not limited to audio, telephonic, or video broadcast.

(3) Before action may be taken on any item, the Board must first approve that the item or items are necessary to assure continuity in Madison County government and that the usual procedures cannot be implemented safely or practically, as may be determined by the Chairman.

(4) For any such matter requiring a public hearing by law, public comment will be solicited and received via written or electronic communication prior to the vote on the matter. All such comments will be provided to the members of the Board and made a part of the record of the meeting.

E. Suspension of Certain Policies.

Any policies or procedures previously adopted by the Board are suspended to the extent they are inconsistent with this Ordinance.

2. That this ordinance will become effective upon adoption.

3. That this ordinance is being re-adopted on an emergency basis as allowed by Virginia Code §15.2-1413, and may be enforced for no more than six months from the date of adoption, unless the Board readopts this ordinance in conformity with all applicable provisions of state law and following the procedures established in this ordinance.

CERTIFICATION OF ADOPTION OF ORDINANCE

The undersigned Chairman of the Board of the County of Madison, Virginia hereby certifies that the Ordinance set forth above was adopted during an open meeting on the _____ day of _____, 2020, by the Board of Supervisors with the following votes:

	Aye	Nay	Abstain	Absent
R. Clay Jackson	___	___	___	___
Charlotte L. Hoffman	___	___	___	___
Kevin K. McGhee	___	___	___	___
Amber Foster	___	___	___	___
Carty Yowell	___	___	___	___

GIVEN under my hand this ____ day of _____, 2020.

R. Clay Jackson, Chairman
Board of Supervisors
Madison County, Virginia

Attest:

Jack Hobbs, Clerk